IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Hung T. Dinh, *et al.*

Serial No.: 10/682,394

Filed: 10/09/2003

Title: Image Distribution For Dynamic
Server Pages

Group Art Unit: 2157

Examiner: El Chanti, Hussein A.

Atty Docket No.: AUS920030662US1

Customer No.: 34533

Confirmation No.: 8396

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Honorable Commissioner:

This is an Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Final Office Action of July 9, 2008 (hereinafter the "Final Office Action"), and pursuant to the Notice of Appeal filed October 8, 2008.

REAL PARTY IN INTEREST

The real party in interest in accordance with 37 CFR § 41.37(c)(1)(i) is the patent assignee, International Business Machines Corporation ("IBM"), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences within the meaning of 37 CFR § 41.37(c)(1)(ii).

STATUS OF CLAIMS

Status of claims in accordance with 37 CFR § 41.37(c)(1)(iii): Twenty (20) claims were filed in the original application in this case. Claims 8-20 were cancelled in a previous Response. Claims 1-7 remain in the present application and are rejected in the final Office Action. Claims 1-7 are on appeal.

STATUS OF AMENDMENTS

Status of amendments in accordance with 37 CFR § 41.37(c)(1)(iv): No amendments were submitted after final rejection. The claims as currently presented are included in the Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Appellants provide the following concise summary of the claimed subject matter according to 37 CFR § 41.37(c)(1)(v). This summary includes a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. This summary includes references to the specification by page and line number and to the drawings by reference characters. The independent claim involved in this appeal is claim 1.

Claim 1 recites a method for distributing images in a data processing system (page 21, lines 12-13, and Figure 3). The method of claim 1 includes receiving a request for a dynamic server page having a multiplicity of associated images, each image having a storage location identified in the dynamic server page by an image resource locator (page 37, lines 18-25, and Figure 8, elements 312, 702, 704, 708, and 710). The method of claim 1 also includes inserting in the dynamic server page an image group identifier for the images (page 38, lines 6-14, and Figure 8). The method of claim 1 also includes inserting in the dynamic server page client data names for the images (page 39, lines 9-10, and Figure 8, elements 714 and 718).

Claim 2 recites a method for distributing images in a data processing system that is similar to the method of claim 1. The method of claim 2, however, also includes receiving from the client a request for a group of images, wherein the request comprises the image group identifier (page 30, lines 16-18, and Figure 4, elements 302, 310, 406, and 414). The method of claim 2 also includes retrieving from storage the images identified by the image group identifier (page 31, lines 8-10, a Figure 4, elements 310, 408, and 416). The method of claim 2 also includes sending the retrieved images to the client (page 32, line 3, and Figure 4, element 410).

GROUNDS OF REJECTION

In accordance with 37 CFR § 41.37(c)(1)(vi), Appellants provide the following concise statement for each ground of rejection:

1. Claims 1-7 are rejected under 35 U.S.C. § 102(e) as being anticipated by Davis, et al. (U.S. Patent No. 6,763,386).

ARGUMENT

Appellants present the following argument pursuant to 37 CFR § 41.37(c)(1)(vii) regarding the grounds of rejection on appeal in the present case.

Argument Regarding The First Ground Of Rejection On Appeal: Claims 1-7 Are Rejected Under 35 U.S.C. § 102(e) As Being Anticipated By Davis, Et Al. (U.S. Patent No. 6,763,386)

Claims 1-7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Davis, *et al.* (U.S. Patent No. 6,763,386) (hereafter 'Davis'). To anticipate claims 1-7 under 35 U.S.C. § 102(e), Davis must disclose and enable each and every element and limitation recited in the claims of the present application. As explained below, Davis does not disclose and enable each and every element and limitation recited in the claims of the present application and therefore does not anticipate the claims of the present application.

Davis Does Not Disclose Each and Every Element Of The Claims Of The Present Application

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Independent claim 1 of the present application recites:

> 1. A method for distributing images in a data processing system, the method comprising:
>
> receiving a request for a dynamic server page having a multiplicity of associated images, each image having a storage location identified in the dynamic server page by an image resource locator;
>
> inserting in the dynamic server page an image group identifier for the images; and

inserting in the dynamic server page client data names for the images.

As explained in more detail below, Davis does not disclose each and every element of claim 1, and Davis therefore cannot be said to anticipate the claim 1-7 of the present application within the meaning of 35 U.S.C. § 102(e).

Davis Does Not Disclose Inserting In The Dynamic Server Page An Image Group Identifier For The Images

The Office Action takes the position that Davis at column 11, line 44 – column 12, line 15, and column 15, lines 15-50, discloses the following limitation of claim 1: inserting in the dynamic server page an image group identifier for the images. Applicants respectfully note in response, however, that what Davis at column 11, line 44 – column 12, line 15, in fact discloses is:

> A more particular embodiment of this aspect of the invention is illustrated in FIG. 4. A Web page (or HTML document) is requested by the client from a first server A, using TCP/IP and HTTP protocols (S401). This HTML document contains text, as well as embedded URLs that point to graphical images (e.g. GIF format image files) also located on the first server A. The images, in general, may be located on any HTTP server on the Internet. These images are embedded inside the Web page using the known HTML <IMG> tag, which allows one to specify the source URL for an image, as well as additional information such as size and other layout parameters. These images will then be fetched by the client using TCP/IP and HTTP protocols from Server A (S402) and rendered on the browser (S405). The Web page (or other Web or HTML document) additionally includes embedded URLs which point to two resources that reside on a second server "B". One of the resources is an executable program, which executes on Server B, and is a CGI script. This resource is also embedded inside the Web page using the <IMG> tag. Thus, in attempting to render the Web page, the client will automatically fetch this resource (S403), which forces execution of the CGI script on the second Server B and the return of information output from the script to the client. In this case, the information returned to the client is formatted as an GIF image type which is extremely small as well as completely transparent (S403B). When the CGI script executes, it may collect information from the HTTP request header such as browser type, network ID (IP address), and if set, client ID ("cookie"), as well as any additional available

> information such as time of execution and the URL of the Web page, and store it in a database-for example using SQL (S403A, S404). In step S403B, the CGI script returns information to the client, which includes a response header which indicates (among other information), that the return type is an image, that this resource should not be cached by the client, and if no client ID is set and the client supports it, that a client ID is to be set to a value generated by the script.

And what Davis at column 15, lines 15-50, in fact discloses is:

> A particular implementation of this mechanism is illustrated in FIG. 6. A Web page is requested by the client from Server A (S601). This Web page contains text, as well as embedded images which must be fetched from Server A (S602) and rendered (S605). In addition, the Web page contains embedded URLs that point to two resources on Server B. The first resource is a first CGI script 1, which is embedded inside the Web page using the standard HTML <IMG> tag (S603). In attempting to render the Web page, the client will automatically fetch the resource associated with the <IMG> tag on Server B, which will result in execution of the CGI script 1. This CGI script 1 can capture client information such as Network ID or Client ID (S603A). The CGI script also returns a transparent image (S603B).
>
> The other resource on Server B is a Java applet, which is a combination ad banner and tracking program. This may be stored on any server. In attempting to render the Web page, the client will automatically fetch the Java code (S604), download, initialize, and start operation of the applet (S607, S608). After the applet is initialized, it contacts Server B to obtain other resources it needs in order to display images, play sounds, or control its overall look and behavior. In fact, the applet may obtain these resources by executing one or more CGI scripts or other processes that reside on Server B or elsewhere (S607). Based on information provided to these scripts through standard HTTP methods, including client information (S607A), such as network and client IDs, any other information such as the URL of the Web page, as well as information captured by the CGI script 1, and the previously constructed historical database profile (S607B), different information (images, sounds, text, etc.) may be returned to the applet. Such information can therefore be selected by the scripts based on Network and/or Client ID, the URL of the Web page, and the previously constructed client profile. This may be accomplished in the manner described above.

That is, Davis at column 11, line 44 – column 12, line 15, and column 15, lines 15-50, discloses collecting client information during the rendering of a web page through the use of scripts identified by URLs included in a standard HTML <IMG> tag. Davis' collecting client information during the rendering of a web page does not disclose inserting in the dynamic server page an image group identifier for the images because Davis does not disclose an image group identifier as claimed in the present application. Image group identifiers "are data elements representing identifications codes for groups of images." Applicants' original specification at page 38, line 8. That is, an image group identifier is used to associate a plurality of independent images with an identifier that identifies a group of images. Applicants' original specification and the claims of the present application disclose using an image group identifier to retrieve each image in the group that is associated with a particular identifier. According to the claims of the present application, such an image group identifier is inserted into a dynamic server pages.

In contrast to the claims of the present application, Davis does not disclose such an image group identifier. Davis' web page only includes several standard HTML <IMG> tags. Davis does not, however, disclose inserting any sort of identifier into Davis' web page that identifies a group of images. That is, according to Davis there is a one-to-one relationship between an identifier and an image rather than a many-to-one relationship wherein a single identifier can identify a group of images. As such, Davis cannot reasonably be said to disclose an image group identifier as claimed in the present application. Because Davis does not disclose each and every element and limitation recited in claim 1 of the present application, Davis does not anticipate claim 1 of the present application within the meaning of 35 U.S.C. § 102. The rejection of claim 1 under 35 U.S.C. § 102 should therefore be withdrawn and the claim should be allowed.

Davis Does Not Disclose Inserting In The Dynamic Server Page Client Data Names For The Images

The Office Action takes the position that Davis at column 11, line 44 – column 12, line 15, and column 15, lines 15-50, quoted above, discloses the following limitation of claim 1: inserting in the dynamic server page client data names for the images. Applicants respectfully note in response, however, that what Davis at column 11, line 44 – column

12, line 15, in fact discloses is collecting client information during the rendering of a web page through the use of scripts identified by URLs included in a standard HTML <IMG> tag. Davis' collecting client information during the rendering of a web page does not disclose inserting in the dynamic server page client data names for the images as claimed in the present application. Davis is generally concerned with tracking client interaction with a network resource downloaded from a server. As such, Davis' web page, described in the quoted references above, includes several standard HTML <IMG> tags. When Davis' CGI script is run, client information is collected. None of Davis' images, indeed not even Davis' CGI scripts, are located client-side but instead are located on a server. 'Client data names' defined in Applicants' original specification at page 10-12, in contrast, identify client-side storage locations for the images of the dynamic server page. Without disclosing such 'client data names' as claimed in the present application, Davis does not disclose each and every element and limitation of the claims of the present application. Because Davis does not disclose each and every element and limitation of Applicants' claims, Davis does not anticipate Applicants' claims, and the rejections under 35 U.S.C. § 102(e) should be withdrawn.

Relations Among Claims

Claims 2-7 depend from independent claim 1. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because Davis does not disclose each and every element of independent claim 1, Davis does not disclose each and every element of the dependent claims of the present application. As such, claims 2-7 are also patentable and should be allowed.

Davis Does Not Disclose Each And Every Element Of The Dependent Claims Of The Present Application

In addition to the fact that Davis does not disclose each and every element and limitation of claim 1 of the present application, there is another reason that Davis does not anticipate any of the dependent claims of the present application – that is, Davis itself does not disclose each and every element and limitation of the dependent claims. Consider dependent claim 2 as an example.

The Office Action takes the position that Davis at column 11, line 44 – column 12, line 15, and column 15, lines 15-50, quoted above, discloses the following limitation of claim 2: receiving from the client a request for a group of images, wherein the request comprises the image group identifier. Applicants respectfully note in response, however, that what Davis at column 11, line 44 – column 12, line 15, in fact discloses is collecting client information during the rendering of a web page through the use of scripts identified by URLs included in a standard HTML <IMG> tag. Davis' collecting client information during the rendering of a web page does not disclose receiving from the client a request for a group of images, wherein the request comprises the image group identifier as claimed in the present application because Davis does not disclose an image group identifier as claimed in the present application. Claim 2 of the present application explicitly recites that client requests a group of images and that such a request includes an image group identifier. In contrast to the claims of the present application, each requested image disclosed by Davis is identified by a file name for that single image. Davis never once discloses that a group of requested images is identified by a single identifier as claimed here – an image group identifier. As such, Davis does not disclose receiving from the client a request for a group of images, wherein the request comprises the image group identifier as claimed in the present application.

In addition to the fact that Davis does not disclose receiving from the client a request for a group of images, wherein the request comprises the image group identifier as claimed here, Davis also does not anticipate claim 2 of the present application because Davis does not disclose retrieving from storage the images identified by the image group identifier. Again, each image retrieved in the disclosure of Davis is identified by a file name that is unique to that particular image. Davis never once discloses a group of images retrieved from data storage are identified by a single identifier as claimed here – an image group identifier. As such, Davis does not disclose receiving from the client a request for a group of images, wherein the request comprises the image group identifier as claimed in the present application. Because Davis does not disclose each and every element and limitation of claim 2 of the present application, Davis does not anticipate claim 2 of the present application and the rejection of claim 2 under 35 U.S.C. § 102(e) should be withdrawn.

Conclusion Of Appellant's Arguments

Claims 1-7 stand rejected under 35 U.S.C. § 102 as being anticipated by Davis. As shown above, Davis does not disclose each and every element of Applicants' claims 1-7. Davis therefore does not anticipate Applicants' claims 1-7. Claims 1-7 are therefore patentable and should be allowed. Applicants respectfully request reconsideration of claims 1-7.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0465 for any fees required or overpaid.

Respectfully submitted,

Date: December 5, 2008

By: ____________________
H. Artoush Ohanian
Reg. No. 46,022
Biggers & Ohanian, LLP
P.O. Box 1469
Austin, Texas 78767-1469
Tel. (512) 472-9881
Fax (512) 472-9887
ATTORNEY FOR APPELLANTS

APPENDIX OF CLAIMS ON APPEAL IN PATENT APPLICATION OF HUNG T. DINH, ET AL., SERIAL NO. 10/682,394

CLAIMS

Listing of Claims:

1. A method for distributing images in a data processing system, the method comprising:

   receiving a request for a dynamic server page having a multiplicity of associated images, each image having a storage location identified in the dynamic server page by an image resource locator;

   inserting in the dynamic server page an image group identifier for the images; and

   inserting in the dynamic server page client data names for the images.

2. The method of claim 1 further comprising:

   receiving from the client a request for a group of images, wherein the request comprises the image group identifier;

   retrieving from storage the images identified by the image group identifier; and

   sending the retrieved images to the client.

3. The method of claim 1 wherein inserting an image group identifier comprises inserting a markup element that includes the image group identifier, wherein the markup element represents an instruction to retrieve, during a single communication connection to the server, all images identified by the image group identifier.

4. The method of claim 1 wherein inserting client data names further comprises inserting in the dynamic server page content as rendered markup elements representing instructions to display the images at client display locations.

5. The method of claim 1 further comprising storing the images as a group on a server, including storing with the images an image group identifier, a dynamic server page name, and client data names for the images.

6. The method of claim 1 wherein inserting a client data name for each image further comprises replacing the image resource locators with client data names

7. The method of claim 6 wherein the image resource locators are set forth in HTML <img> elements in the dynamic server page and replacing the image resource locators with client data names includes replacing the <img> elements with markup elements comprising the client data names.

Claims 8-20. (Cancelled)

APPENDIX OF EVIDENCE ON APPEAL IN PATENT APPLICATION OF HUNG T. DINH, ET AL., SERIAL NO. 10/682,394

This is an evidence appendix in accordance with 37 CFR § 41.37(c)(1)(ix).

There is in this case no evidence submitted pursuant to 37 CFR §§ 1.130, 1.131, or 1.132, nor is there in this case any other evidence entered by the examiner and relied upon by the Appellants.

RELATED PROCEEDINGS APPENDIX

This is a related proceedings appendix in accordance with 37 CFR § 41.37(c)(1)(x).

There are no decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR § 41.37(c)(1)(ii).